

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THOMAS MATTHEWS, individually and on
behalf of a class of all persons and entities
similarly situated,

Plaintiff,

vs.

GERBER LIFE INSURANCE COMPANY and
JOHN DOE CORPORATION d/b/a/ LEGACY
QUOTE,

Defendants.

Case No. 7:23-cv-00552-VB

NOTICE OF MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED
CLASS ACTION COMPLAINT
PURSUANT TO FED. R. CIV. P.
12(b)(6)

PLEASE TAKE NOTICE that upon the accompanying memorandum of law and all pleadings filed in this action, Defendant Gerber Life Insurance Company ("Gerber") will move this Court before the Honorable Vincent L. Briccetti, United States District Judge, at the United States District Court, Southern District of New York, 300 Quarropas Street, Courtroom 620, White Plains, NY 10601, on a date and time to be determined by the Court, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Plaintiff's First Amended Class Action Complaint in its entirety with prejudice, together with such other or further relief as may be just.

Dated: New York, New York
May 12, 2023

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By: /s/ Damon W. Suden

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 2023, I caused service of the foregoing Notice of Motion to Dismiss Plaintiff's Amended Class Action Complaint Pursuant to Fed. R. Civ. P. 12(b)(6), along with the Memorandum of Law in Support of Defendant Gerber Life Insurance Company's Motion to Dismiss Plaintiff's Amended Class Action Complaint Pursuant to Fed. R. Civ. P. 12(b)(6), to be made by electronic filing with the Clerk of the Court using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

Dated: May 12, 2023
New York, New York

/s/ Damon Suden
Damon Suden